

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
FCA VENTURE PARTNERS III SBIC, L.P.,  
  
Defendant.

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Case No. 3:10-cv-00929  
  
JUDGE SHARP  
MAGISTRATE JUDGE BRYANT

This matter came before the Court on the Motion of the U.S. Small Business Administration as Receiver (“Receiver”) for FCA Venture Partners III SBIC, L.P. (“FCA SBIC”) for an Order Approving the Receiver’s Notice and Determination of Claims, Authorizing Payment of Approved Claims and Establishing Summary Disposition Procedures, and this Court being duly advised as to the merits,

1. The Receiver's Motion for Entry of an Order Approving the Receiver's Notice and Determination of Claims, Authorizing Payment of Approved Claims and Establishing Summary Disposition Procedures is GRANTED;

3. The Receiver is authorized to pay the following claims in the following order of priority, to the extent of available receivership assets, and the following claims are hereby APPROVED:

- a. First, any and all administrative expenses of the receivership estate;
  - b. Second, any future outstanding Receiver's Certificates of Indebtedness, should the Receiver make such borrowings from the SBA in the future, plus accrued interest;
  - c. Third, the claim FCA Venture Partners III, L.P. in the amount of \$46,884.73;
  - d. Fourth, the Preferred Limited Partnership Interest of the U.S. Small Business Administration ("SBA"), which includes principal of \$21,264,239.00 plus Prioritized Payments as those payments become due. The Receiver is hereby authorized to make partial payments from receivership funds to the SBA in partial payment of its preferred limited partnership interest in FCA SBIC, reserving sufficient funds for the effective administration of the receivership estate in the discretion of the Receiver, without further prior order of this Court; and
  - e. Fifth, any surplus funds shall be distributed to the remaining limited partners of FCA SBIC in accordance with the provisions of FCA SBIC's Agreement of Limited Partnership.
4. The following claims are hereby DENIED:
- a. That part of the claim of FCA Venture Partners III, L.P. representing unauthorized management fees from December 7, 2010 through December 16, 2010, in the amount of \$4,685.30.
  - b. The claim of ProMedTek, Inc. in the amount of \$500,000.

5. Any claimant who opposes the Receiver's recommended disposition of its claim, which recommended disposition is hereby approved and ratified by this Court, is ORDERED to either file a Motion in Opposition to the Receiver's recommended disposition of its claim, together with a Brief in Support of its Motion, which sets forth the specific factual and legal grounds for its opposition, and a proposed Order, within thirty (30) days from the date of service of a copy of this Order by the Receiver on the claimant, or such claimant's claim shall be forever barred and deemed null and void, and such claimant shall be permanently enjoined from asserting, pursuing, or prosecuting any such claim against FCA SBIC, the Receiver, their successors and assigns, or against any assets or funds in the possession of the Receiver. The claimant is ORDERED to serve copies of its pleadings on the attorney for the Receiver via first class mail, postage pre-paid and via email to [arlene.messingerlerner@sba.gov](mailto:arlene.messingerlerner@sba.gov).

6. The Receiver is hereby authorized to file a Reply in Rebuttal to any such pleadings within fifteen (15) days of receipt of service of such pleadings from objecting claimant.

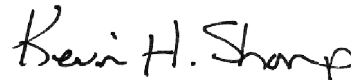
7. This Court shall resolve any such opposition on the basis of the claim documents previously submitted to the Receiver, the Receiver's Notice and Determination of Claims Received in Response to Claims Bar Date, along with the Motion and Memorandum accompanying thereto, the Claimant's Motion and Brief in opposition, and the Receiver's Rebuttal Brief thereto, without hearing unless otherwise ordered.

8. This Order shall become a Final Order thirty (30) days after service hereof by the Receiver with respect to any persons who do not file timely opposition, as well as all other persons who failed to file claims pursuant to the terms of the Court's Order dated September 12,

2011 establishing the Claims Bar Date, shall be forever barred and permanently enjoined from asserting, pursuing or prosecuting any pre-Bar Date Claim (i.e. arising before November 14, 2011) against FCA SBIC, the Receiver, their successors and assigns, or assets or funds in the possession of the Receiver.

9. The Receiver shall serve copies of this Order on all claimants and parties of record.

SO ORDERED: This 4<sup>th</sup> day of October, 2023

Handwritten signature of Kevin H. Sharp in black ink.

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UNITED STATES DISTRICT JUDGE